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Assessment Review Board

Annual Report 2008-2009

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Chair's Message

I am pleased to present the Assessment Review Board's (ARB's) 2008-2009 Annual Report.

This report covers the events of the fiscal year, which ran April 1, 2008 to March 31, 2009. The Board received approximately 46,000 appeals and resolved over 45,000 appeals.

Because of changes to the Assessment Act, the Board made several key improvements to our appeal intake strategy, which helped to reduce the number of incorrect or incomplete appeal filings.

During this fiscal year, both central and regional training sessions were held for all active Members.

The ARB continued to streamline and refine its processes and procedures. For the 2009 tax year, with changes in the legislation, significant changes were made to the Board's processes. The website was revised, and new appeal forms and brochures were developed. The website continued to be a key resource for the public, providing useful information and the ability to file appeals online.

As the adjudicative tribunal Ontarians look to when contesting property assessments, the ARB is fully committed to resolving appeals in a fair, open and timely manner.

Richard Stephenson

Chair
Assessment Review Board

SECTION 1: ASSESSMENT REVIEW BOARD OVERVIEW

Overview of the Property Assessment System



The above diagram illustrates the major participants in the property assessment system of Ontario. The provincial government, through the Ministry of Finance, sets the laws regarding property assessment. Municipalities are responsible for setting tax rates and collecting property taxes. The Municipal Property Assessment Corporation (MPAC) assesses and classifies all properties in Ontario. If there is a dispute between a property owner and MPAC, the property owner can file an appeal with the Assessment Review Board (ARB).

Purpose of the Board

The Assessment Review Board (ARB) is an independent adjudicative tribunal established under statute by the Province of Ontario that hears appeals about property assessment and classification. In a court-like setting, the ARB hears these appeals and renders a decision based on the law and the evidence presented at the hearing.

The Board, which operates under a variety of legislation, also deals with appeals on property tax under the Municipal Act, the City of Toronto Act and the Provincial Land Tax Act.

The Board's primary mandate is to ensure that properties are assessed in accordance with the provisions of the Assessment Act. ARB hearings are held throughout the province, generally in the municipality where the property is located. Through the hearing process, the appellants, or their representatives, are given the opportunity to present their case to the Board.

Along with other regulatory and adjudicative agencies, the ARB helps form the administrative justice sector in Ontario. These core agencies provide justice that is less expensive, less complex and less formal than the courts.

Agency and Board Members are an integral component of Ontario's legal infrastructure. They possess specialized knowledge of relevant legislation and matters in their particular field.

History and Jurisdiction

Property assessments have been conducted in what is now Ontario since 1793. In 1970, the province assumed the role of assessing property from municipalities and replaced the Courts of Revision with the Assessment Review Court (ARC). ARC was renamed the Assessment Review Board in 1983.

With the enactment of the Fair Municipal Finance Act, 1997, the ARB became the province's sole adjudicative tribunal for property assessment appeals. The legislation reduced duplication and ensured that the Board was the final tribunal of appeal for such appeals. Prior to 1998, ARB decisions could be appealed to the Ontario Municipal Board (OMB).

In 1998, an amendment to the Assessment Review Board Act gave the ARB the capacity to dismiss frivolous appeals. Decisions by the Board are final and binding, subject only to appeal to Divisional Court on questions of law when the Court grants leave to appeal. The Board also exercises the power to review its decisions.

For the 2009 tax year, changes to the Assessment Act require owners of residential, farm, conservation lands and managed forest to file a request for reconsideration with MPAC, and/or the Program Administrator, as a mandatory precondition to filing an appeal with the ARB.

The Board's jurisdiction and its authority are defined by the Assessment Review Board Act, the Assessment Act, the Municipal Act, 2001, the City of Toronto Act, 2006, the Provincial Land Tax Act, 2006, the Education Act and the Statutory Powers Procedure Act.

Agency Cluster

In September 2006, the Ontario government appointed an Agency Cluster Facilitator to work with five tribunals in the municipal, environment and land-use planning sectors to find ways to improve services through cross-agency coordination of operations, administration and dispute resolution.

The five tribunals included in the cluster were: the Assessment Review Board (ARB), the Board of Negotiation (BON), the Conservation Review Board (CRB), the Environmental Review Tribunal (ERT) and the Ontario Municipal Board (OMB). All the Boards were co-located in March 2008 to 655 Bay Street in Toronto.

In January of 2009, the ERT was transferred from the Ministry of the Environment to the Ministry of the Attorney General (MAG). At the same time, the CRB was also transferred to MAG from the Ministry of Culture.

Changes in Legislation and Regulations

(Note: the following changes in legislation and regulations are not a complete list but are key provisions affecting the Assessment Review Board.)

1. 2009 Tax Year (*Assessment Act*)

As mentioned in last year's annual report, major changes to the assessment system were announced in Ontario's 2007 Budget for the 2009 tax year. The *Budget Measures and Interim Appropriation Act, 2008* received royal assent on May 14, 2008. Also key for the Board was the *Budget Measures and Interim Appropriation Act, 2008 (No. 2)* which received royal assent on November 27, 2008 and contained three amendments relating to tax exemptions (care homes, garden suites and minerals) and six changes regarding request for reconsideration and appeal administration.

2. 2009 Tax Year (*Provincial Land Tax Act, 2006*)

The *Provincial Land Tax Act, 2006* came into force on January 1, 2009. This act provides for the levying of property tax on land in non-municipal territories. The assessment of land in non-municipal territories will be under the *Assessment Act*. The *Provincial Land Tax Act, 2006* is similar to the *Municipal Act, 2001* and the *Assessment Act* except the Minister of Finance has powers and duties that correspond to those of municipal councils and municipal officials.

3. Residual Commercial Property Class

On April 16, 2008 Ontario Regulation 90/08 was filed and concerned the optional residual commercial property class and the requirement of a council by-law if the residual commercial property class is to apply within a municipality.

4. Housekeeping Amendments

On December 9, 2008 Ontario Regulation 437/08 was filed and concerned housekeeping amendments regarding additional information to be included on the assessment roll under subsection 14(1) and, adjustments under section 19.1 of the *Assessment Act*.

On January 26, 2009 Ontario Regulation 16/09 was filed and concerned changes to the request for reconsideration and appeal deadlines from December 31 to March 31 and makes the request for reconsideration a mandatory precondition of appeal for conservation lands.

5. Managed Forests

On November 7, 2008 Ontario Regulation 394/08 was filed concerning managed forests. On March 20, 2009 Ontario Regulation 101/09 was filed concerning managed forests.

Changes to Rules of Practice and Procedure

In September of 2008, the ARB revised Rule 8, which relates to representation. In a commentary to the Rule, the ARB noted:

In light of changes to the Law Society Act and the Statutory Powers Procedure Act and in particular, paying note to Rule 4.04(2) of the Paralegal Rules of Conduct, in order to maintain a level playing field, the status quo of allowing unrepresented people or representatives permitted to appear before the Board to both advocate and give evidence under oath or affirmation will continue for the balance of 2008 or until the Board's Rules are revised.

Changes to the Assessment Act for the 2009 tax year, along with the ARB's ongoing efforts to improve its processes, resulted in substantial consultations and revisions to the Rules of Practice and Procedure. New Rules were released that take effect April 1, 2009. Copies of the new Rules are available from the ARB's website.

SECTION II: OPERATIONS 2008-2009

2008-2009 Caseload

At the beginning of the 2008-2009 fiscal year, the ARB had a total of 78,000 appeals on file. During the 2008-2009 fiscal year, the Board received approximately 46,000 appeals. By the end of the fiscal year, over 45,000 appeals were resolved. The bulk of the outstanding caseload at the end of the fiscal year consisted mostly of complex, non-residential properties from previous years.

Complex cases may require multiple pre-hearings to clarify the issues, therefore more time may be required by the parties to gather evidence and prepare testimony.

Table 1: Caseload 2006-2007 to 2008-2009

YEAR		2006-2007	2007-2008	2008-2009
Opening Caseload Balance		98,100	87,000	78,000
Caseload Received *	+	39,000	53,000	46,000
Total Caseload for year	=	137,100	140,000	124,000
Resolved Caseload	-	50,100	61,000	45,000
Balance at the End of the Fiscal Period	=	87,000	78,000	79,000

Note: The deadline for assessment appeals to the ARB was changed for the 2009 tax year. In previous years it was March 31. For 2009, it was March 31, 2009 or 90 days from the date of MPAC's request for reconsideration decision.

* **Caseload Received** includes all types of appeals dealt with by the Board, including annual assessment appeals, supplementary and omitted assessment appeals, Municipal Act appeals and City of Toronto Act appeals.

Performance Results

The ARB hears all assessment appeals in Ontario. Generally, residential appeals can be streamed directly to a full hearing and are consequently resolved faster than many non-residential appeals, which may require multiple hearing events.

The ARB works to resolve residential appeals within one year of filing. In the 2008-09 fiscal year, 99 per cent of unrepresented residential appeals were resolved within 365 days of filing.

The ARB strives to issue its decisions in a timely manner, in the 2008-2009 fiscal year, 90 per cent of decisions were issued within 60 days of the hearing.

Pre-hearings

Many appeals concerning complex, non-residential properties require extensive hearing time and may be presided over by a panel of Members.

These appeals are screened based on established criteria such as property classification, size and assessed value, and may be directed into pre-hearings. During the pre-hearing process, the Board works with the parties to establish a schedule for proceeding and may issue procedural orders to direct exchanges of information and pre-filings. Pre-hearings have the potential to expedite the hearing process and allow parties to reach a settlement before a hearing begins.

Teleconferences

It can sometimes be difficult and time consuming to coordinate a hearing when parties need to travel across the province. For these cases, the Board conducts telephone conferencing, or “electronic hearings.” In 2008-2009, the Board conducted more than 2,700 teleconferences. Teleconferencing is a practical way to provide status updates and determine next steps toward issuing procedural or consent orders, resolving contentious matters and, in some instances, settling appeals. This service saves time and money by reducing travel for all parties involved in Board hearings.

Website & Electronic Service Delivery (ESD)

The Board’s website, www.arb.gov.on.ca, plays a key role in providing information and services to the public.

In 2008-2009, the Board enhanced its existing E Services to continue providing efficient ESD. Throughout the year, the Board’s website, E Status and E File options were updated and improved, with a focus on user friendliness and clear language.

In addition to providing information to the public, the website hosts three main services:

E File

E File is a tool that allows the public to submit assessment appeals via the ARB website. All required information and the appropriate filing fees are collected and verified electronically online. E Filed appeals are accepted immediately into ARBIS, the ARB’s electronic case management system. E Filed appeals do not require manual data entry, reducing the required processing time. For the 2009 tax year, the Board revised its E File system to utilize newer technology and reflect changes to the appeal process.

E Status

E Status allows appellants to check the status of their appeals directly from the ARB website by entering the 19-digit roll number assigned to their property. E-Status displays information about appeals, hearings (once scheduled) and decisions (once issued). In 2008-2009, E Status received approximately 2,000 to 3,000 inquiries each month.

E Calendar

E Calendar provides appellants, representatives and other interested parties current information about ARB hearings throughout Ontario. Hearing information can be obtained by searching for the location of a property or the location of a hearing.

Public Information and Outreach

The Board strives for effective and timely communication with the public and stakeholders. To communicate more effectively, the Board has:

- Updated and re-designed its *Filing an Appeal* and *Preparing for a Hearing* pamphlets. Both pamphlets are available on the Board's website in downloadable formats;
- Expanded on correspondence with appellants via e-mail. The Board answered over 1,700 e-mails. Clients used e-mail to inform the Board about a variety of issues, including change of address, withdrawals and requests for written reasons;
- Updated its appeal forms and instructions to include improvements suggested by the public, staff and Adjudicators.

Member Training

Ongoing Member training remains a priority at the ARB. Newly appointed Members have the benefit of an in-house introductory session, in-hearing mentoring by senior Members and courses that are tailored to the issues Members confront in the various types of ARB hearings. Regional training sessions are held semi-annually and Intensive Training Sessions (ITS) are held annually. As well, all Members are encouraged to attend educational courses available through the Society of Ontario Adjudicators and Regulators (SOAR).

SECTION III: FINANCIAL SUMMARY

Expenditures

Table 2: Expenditures 2006-2007 to 2008-2009

ACCOUNT ITEMS	2006-2007 (\$)	2007-2008 (\$)	2008-2009 (\$)
Salary and Wages	4,444,317	4,488,481	4,717,539
Employee Benefits	662,880	623,291	653,728
Transportation and Communications	831,748	658,930	608,274
Services	2,044,602	2,426,646	1,994,542
Supplies & Equipment	486,232	190,656	191,616
Transfer Payment	NIL	NIL	NIL
TOTAL	8,469,779	8,388,004	8,165,699

Revenue

Under the authority of the Assessment Review Board Act and a regulation made under it (O. Reg. 290/07) appeals must be accompanied by the required filing fee. The filing fee, which varies depending on property type, is collected by the ARB and is immediately transferred to the Ministry of Finance.

Table 3: ARB Revenue 2006-2007 to 2008-2009

FISCAL YEAR	REVENUE COLLECTED (\$)
2006-2007	3,654,571
2007-2008	698,051
2008-2009	2,224,487

SECTION IV: ARB MEMBERS 2008-2009

ARB Members (During the 2008-2009 fiscal year)

<u>Full-Time</u>	<u>Original ARB Appointment</u>
STEPHENSON, Richard (Chair)	April 7, 1993
BUTTERWORTH, Robert (Vice-Chair)	November 19, 1997
MATHER, Susan (Vice-Chair)	November 19, 1997
BOURASSA, Marcelle (Vice-Chair)	April 11, 2006
COWAN, Bernard A.	December 19, 1997
WYGER, Joseph M.	May 27, 1998
WHITEHURST, Donald	May 18, 2005
WALKER, Janet Lea	September 4, 2007

<u>Part-Time</u>	<u>Original ARB Appointment</u>
ANDREWS, Peter	May 18, 2005
BACHLY, David	November 26, 1970
BELANGER, Mignonne	January 11, 1984
BIRNIE, Ian	May 6, 1999
BROWN, Douglas C.	June 30, 2000
BROWNLIE, John D.	May 27, 1998
CASTEL, André	November 19, 1997
CORCELLI, Richard J.	January 15, 2007
CRAIGIE, Kenneth Russell	January 15, 2007
CUPIDO, Charles	October 1, 1980
DRIESEL, Sandra	March 16, 2000
FENUS, Andrew	May 30, 2007
FERGUSON, Nancy	April 11, 2006
GRIFFITH, E.J.W.	November 12, 1970
GRIFFITH, Jennifer	September 17, 2004
HILL, Don	December 23, 1970
INGLIS, Vern	May 27, 1998
JUSTIN, Edith	November 17, 1970
KANUCK, Nalin Dr.	May 7, 2003
KOWARSKY, Barbara	May 18, 2005
LAFLAMME, Jacques	August 25, 2004
LAREGINA, Anthony	January 15, 2007
LAWS, Joanne	February 10, 2006
LEVASSEUR, Romeo	May 18, 2005
LIMOGES, Rick	January 15, 2007
MACGILLIVRAY, J.	February 8, 1984
MACKAY, Ann	August 25, 2004
MARQUES, Ana Cristina	May 18, 2005

MINNIE, Garry	March 1, 2006
MORIN, Gilles	September 30, 2004
NALEZINSKI, Les	March 1, 2006
OLIVEIRA, Evangelista (Ivan)	May 17, 1999
PLUMSTEAD, Nicoll	May 18, 2005
RADE, Bernice M.	August 25, 2004
ROMAS, George	August 25, 2004
SAPONARA, Fausto	May 18, 2005
SHARMA, Marilyn	January 15, 2007
SMITH, Barry A.	November 26, 1970
STILLMAN, Paul M.	March 26, 1975
SUTTON, William (Bill)	September 17, 2004
TCHEGUS, Robert	February 10, 2006
TENNANT, Bryan R.	March 31, 2000
TERSIGNI, Joe	May 30, 2001